



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240



SEP 29 2008

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## DECISION

Earth Justice  
c/o James S. Angell  
1400 Glenarm Place, Ste. 300  
Denver, Colorado 80202

Western Resource Advocates  
c/o Michael Chiropoulos  
2260 Baseline, Ste. 200  
Boulder, Colorado 80302

### **August 14, 2008 Competitive Oil & Gas Lease Sale Protest Of Parcels COC73064 through COC73094 Is Dismissed**

NOTE: Due to the high volume of protests, the official BLM protest response is posted on the BLM Colorado website, [co.blm.gov](http://co.blm.gov). This paper copy is provided to you as a courtesy.

Your letter was received in our office on July 30, 2008, protesting the above named parcels offered in the August 14, 2008, Competitive Oil & Gas Lease Sale.

#### **Protest Point A.1: BLM violated NEPA by failing to analyze reasonable alternatives.**

##### **Response:**

The Bureau of Land Management (BLM) analyzed an adequate range of alternatives and developed a Resource Management Plan Amendment (RMPA) based on suitable analysis, as well as on public and cooperating agency input. While there are many variations that might have been analyzed in the planning process, the BLM is only required under National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations to address a reasonable range of alternatives (see 40 C.F.R. § 1502). The BLM is not required to address each variation; especially those put forth after the Proposed RMPA and Final Environmental Impact Statement (FEIS) have been published. The CEQ addressed this issue as follows: "For

some proposals there may be a very large or even an infinite number of reasonable alternatives. When there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS.” (Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, 46 Fed. Reg. 18,026, 18,031 (March 23, 1981)).

The range of alternatives considered throughout the planning process constituted a full and reasonable spectrum. The range included management options ranging from the emphasizing environmental preservation (Alternative II, which considered no leasing atop the plateau and protective stipulations below the cliffs) to a development-focused alternative (Alternative V). The Proposed Action Alternative contained key environmentally protective elements of alternatives analyzed in the Draft RMPA/EIS including limiting development to ridgetops with slopes less than 20 % limiting development to 350 acres at any given time, and designation of four Areas of Critical Environmental Concern covering 21,034 acres. (See Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, 46 Fed. Reg. 18,026, 18,031 (March 23, 1981)). The BLM considered a broad range of analysis and public input in approving a RMPA that represents a balanced management strategy protecting resources and allowing for commodity use.

Alternative F was a preliminary alternative which, pursuant to 40 C.F.R. 1502.14(a), was not carried forward for further analysis because (1) it did not meet the objectives of the Transfer Act (Public Law Number 105-85) and (2) its “no leasing” component was present in the No Action Alternative. Most preservation goals contained in Alternative F were incorporated into one or more of Alternatives I through V and analyzed in the Draft RMPA/EIS. In summary, Alternatives I through V of the DEIS included consideration of one or more of the following major components of Alternative F: no new leasing on top of the plateau (44,267 acres); management of 21,382 acres for the protection of wilderness characteristics in three areas, under section 202 of the Federal Land Policy and Management Act (FLPMA) (Note: designation of Wilderness Study Areas (WSA) is no longer considered to be within the authority of the BLM under FLPMA § 603); designation of four Areas of Critical Environmental Concern (ACECs) totaling 36,184 acres; protection of 7,883 acres as having a No Surface Occupancy (NSO) stipulation within eligible wild and scenic river corridors; the no-leasing area atop the plateau (44,267 acres in Alternative I) encompasses the 32,382 acres considered for a Special Recreation Management Area (SRMA) in Alternative F; strict management of motor vehicle travel (included in the RMPA); and timing limitations for winter range (included and expanded in the RMPA). Similar to “Alternative F”, many aspects of the “Community Alternative” were considered in various alternatives of the Draft RMPA. The “Community Alternative” which was supported by several local communities, sought to “keep the top and cliffs of the Roan Plateau “mostly as it is” while still managing the area for responsible energy development and other public uses such as grazing, hunting, hiking, fishing, and other recreation....” (Reference: Town of New Castle Resolution No. TC-2005-2). Most of these concepts were considered in one or more of the Draft RMPA alternatives most notably Alternative II; which would have allowed limited leasing atop the plateau, imposed protective stipulations below the cliffs and implement higher standards of mitigation to protect steep slopes and erosive soils (See Draft RMPA/EIS November 24).

You contend that the BLM improperly interpreted the Transfer Act that pertains to the Roan Plateau’s Naval Oil Shale Reserves 1 and 3. We disagree, the Transfer Act states that BLM “shall” lease those areas and your protest has not proven otherwise. The BLM considered both



leasing and not leasing the un-leased portions of the transferred lands (under the Transfer Act), as well as partially leasing these lands. Alternative I of the DEIS proposed no new leasing on transferred lands. Under Alternative II, BLM considered partial leasing by limiting to approximately 21,000 acres the area available to leasing. Alternatives III, IV, and V would have made all lands available for leasing. The BLM, therefore, provided a full range of alternatives for consideration and environmental review consistent with NEPA requirements.

**Protest Point A.2: The BLM violated NEPA by ignoring impacts that will be felt more than 20 years from now.**

**Response:**

The CEQ requires BLM to analyze only reasonably foreseeable environmental impacts (40 CFR 1508.7). The PRMPA/FEIS analyzed the impacts of leasing-level decisions and addresses cumulative impacts relating to such leasing, based on a reasonable projection of activities. Further site-specific NEPA analysis will be required when specific exploration, development, and production activities are proposed. Such specific analyses would provide for a more thorough examination of impacts related to the development of the lease parcels and provide for the application of site-specific conditions of approval.

The BLM's policy in assessing the likelihood of development for mineral resources is articulated in the BLM's "Planning for Fluid Mineral Resources Handbook" (H-1624-1). Guidance from this handbook addresses the projection of reasonably foreseeable development under existing management conditions. The guidance directs an interdisciplinary team, "to project management activities and actions, including developments, which are likely in the planning area over the life of the plan (i.e., generally 15 to 20 years or whatever has been determined to be the planning horizon or timeframe for the RMP) assuming continuation of existing management." Also see National Wildlife Federation et al., 170 IBLA 240 (2006); Wyoming Outdoor Council, et al., 164 IBLA 84 (2004); BLM Land Use Planning Handbook H-1601-1(2005); and WO IM 2004-89. The RMPA was prepared following the direction in the aforementioned guidance.

The Reasonably Foreseeable Development scenario (RFD) is a planning tool which represents the BLM's assumptions regarding unconstrained development potential. The RFD assumes that only standard stipulations and technical limitations would be in place and thus, does not include the overlay of restrictions, stipulations, and timing. Over the course of the next twenty years, many potentially important factors may change dramatically including: drilling technologies, social and economic conditions, alternative energy source development, etc making far reaching predictions about the number of wells obsolete. Therefore, environmental impacts related to those wells are equally speculative. The 210-well figure used for analysis in the PRMPA/FEIS is based on the area projected to be available for drilling, seasonal constraints, limited drilling rigs, and the difficulty of access. Beyond 20 years, the areas available for drilling and locations of wells become highly speculative. BLM resource management plans can be and are amended when new significant information becomes available or where a threshold of impacts is reached in an area.

The area projected to be available for drilling assumes a 350-acre maximum surface disturbance at any one time, with subsequent reclamation sufficient to minimize surface water runoff, prevent invasive weeds and attract wildlife. Most of the development in the first twenty years is anticipated to occur below the rim adjacent to producing reservoirs where access is not as constrained by seasonal considerations and land ownership.



If development in the planning area exceeds the impacts analyzed in the plan, then the BLM may be required to produce further NEPA analysis and possibly, an amendment to the Glenwood Springs RMP (note: the Glenwood Springs RMP was amended and supplemented in 1990 and 1999 to address issues related to oil and gas development). A BLM RMP can be amended at any time should pertinent and significant new information become available, or where a threshold of impacts is reached in an area. Further, though an oil and gas lease may extend beyond the RFD projection, Section 6 of the Lease Form provides for environmental protection applied to individual leases. Stipulations placed on the lease at issuance continue to apply throughout the life of the lease (unless modified or waived, as provided by regulation). In the future, additional protective measures in the form of conditions of approval (COAs) will be applied if needed, based on site-specific analysis.

**Protest Point A.3. BLM failed to analyze cumulative effects of leasing.**

**Response:**

The BLM adequately analyzed cumulative impacts to the extent that they were applicable to the resources affected.” As stated in 4.1.1.2 of the FEIS, the boundaries used to define impact sources and levels differ by resource. Furthermore, “... it is not known how much long-term surface disturbance would result, to what degree adverse impacts would be avoided or mitigated, and how the impacts would affect other resource values and land used such as hunting, off-highway vehicle travel, visual quality, livestock grazing, and so forth. Therefore, the descriptions of cumulative impacts for the individual resources addressed in Sections 4.2 through 4.5 are necessarily qualitative” (PRMPA/FEIS 4.1.1.2). Further site-specific NEPA analysis will be required when specific exploration, development, and production activities are proposed. Such specific analyses would provide for a more thorough examination of impacts related to the development of the lease parcels and provide for the application of site-specific conditions of approval.

With respect to cumulative effects on air quality the BLM appropriately determined the scale of each analysis area for the resource values under analysis. Two groups of emission sources were modeled within this analysis. The first included new and modified emission sources that have commenced operation since the monitoring baseline date. The second group included future proposed sources expected due to the BLM oil and gas development: compressors for gas compression, glycol dehydrators, and fugitive dust from new roads.

The CALPUFF model was used to estimate potential impacts on air quality and other reasonably foreseeable sources in the region including the entire Vernal Field Office and Glenwood Springs FO areas and covers most of northeastern Utah, western Colorado and portions of southwestern Wyoming (See page 4-37 Draft RMP/EIS). The projects you cite may be located nearby or adjacent to the geographic area used for the cumulative assessment. Potential emission sources in these areas were combined with source emissions resulting from the alternative with the highest potential for oil and gas development (e.g. Alternative V). These air quality data were obtained from the state air quality regulatory agencies.

Other ongoing land use plan amendments will address cumulative impacts associated with many of the projects listed in your protest as well as any impacts associated with the Roan Plateau RMPA, where appropriate. Additional NEPA analysis may be required should pertinent new and significant information become available, or where a threshold of impacts is reached in an area,



before further development is approved.

The air quality models did include emissions from certain construction activities (including traffic, construction of well pads, roads); and for near field sources (including well pads, glycol dehydrators, gas compressors and unpaved roads). Note: Drill rig emissions (sulfur dioxide) were not included in the model because, in the professional opinion of air quality specialists, the short-term emissions is considered insignificant. This modeling covers most of northeastern Utah, western Colorado, and portions of southwestern Wyoming. Outputs from the air quality modeling did compare potential direct and cumulative air quality impacts plus the existing background concentration to the applicable National AAQS and State AAQS which are more stringent than the national standards.

The modeling results for cumulative effects do not exceed NAAQS and show that none of the potential pollutants will exceed any of the Class I and Class II PSD increments. Two pollutants (benzene and formaldehyde) were the only values that exceeded the ACLs. However, these values were within the range of presumptively acceptable risks (page 4-46 and 4-47 of the DRMPA/DEIS).

**Protest Point A.4: BLM failed to analyze ozone impacts.**

**Response:**

While NEPA states that all Federal agencies "to the fullest extent possible" must provide a detailed EIS (42 U.S.C. 4332), neither Congress nor the courts have indicated precisely how much detail an EIS must contain. However, courts have consistently held that, at a minimum, NEPA imposes a duty on Federal agencies to take a "hard look at environmental consequences" (Natural Resources Defense Council v. Morton, 458 F.2d 827, 838 (D.C. Cir., 1972).

The agency has the obligation to make "a substantial, good faith effort at studying, analyzing, and expressing the environmental issues in the EIS and the decision-making process," and courts recognize that "a rule of reason must prevail because an EIS which fully explores every relevant environmental detail could never be drafted" (Natural Resources Defense Council v. Morton, 458 F.2d 827, 838 (D.C. Cir., 1972). For the reasons described below, the BLM air quality analysis for the Roan Plateau met this criterion for sufficiency even though ozone was not one of the pollutants analyzed.

During the scoping phase of the draft RMPA/EIS that began in November of 2000, ozone impacts were not identified (either internally or externally to BLM) as an issue warranting analysis in the EIS. At the time, BLM concluded that analysis of ozone impacts was not (1) necessary to make a reasoned choice between alternatives, or (2) an issue associated with a potential significant direct, indirect, or cumulative impact. Therefore, in accordance with the NEPA scoping procedures, BLM determined an analysis of ozone impacts was not warranted in the RMPA/EIS.

Subsequent to the scoping for the RMPA/EIS, the BLM prepared a draft air quality assessment protocol. BLM submitted the protocol to several agencies, including Colorado Department of Public Health and Environment (CDPHE) and EPA, for review. CDPHE, the agency delegated the responsibility for monitoring ozone and enforcing applicable standards under the Clean Air Act, agreed with BLM that "ozone modeling is outside the scope of this project" (December 20, 2002 memorandum from Nancy Chick, CDPHE to Mike Silverstein, CDPHE). Air quality specialists for the BLM predicted that most emissions from gas wells on the Roan Plateau would



produce methane and ethane gas. These emissions are not criterion in the formation of ozone. The BLM did model other precursors of ozone such as NO<sub>x</sub>. However, given the high potential ratio of NO<sub>x</sub> to volatile organic compound emissions such as methane and ethane, significant ozone formation was not likely to occur. For these reasons, air quality specialists for the BLM determined at the scoping phase that ozone creation would not be a significant impact resulting from the leasing decision.

Further, at the time (circa 2003) the air quality assessment for the PRMPA/FEIS was performed, a reliable tool for assessing ozone impacts from oil and gas developments was not available. The method recommended by EPA for predicting ozone impacts, screening tables (Scheffe method), was determined by BLM to be too conservative and would likely overstate potential impacts. Therefore, the BLM determined screening tables would not provide results of any real value. The Scheffe method, though initially used in the Jonah Infill air quality analysis, has since been disavowed by its author as “antiquated and useless.”

The only remaining tool to assess future ozone impacts was then a photochemical grid model. However, the necessary inputs for utilizing a photochemical grid modeler were not available. In particular, the oil and gas area source emission inventories necessary to perform photochemical grid modeling for ozone were not available. In fact, work on these inventories did not begin until approximately 2005, after the air quality assessment for the Draft RMPA/EIS began. Moreover, the earliest version of the oil and gas areas source emissions inventories were developed to support visibility, and not ozone analysis, and as such lacked the necessary information, particularly for volatile organic compounds. Analysis of ozone with photochemical grid models requires a comprehensive regional emission inventory for all ozone precursors. As this was not available at the time, and the Scheffe method had been discredited, it was not possible for the BLM to analyze future ozone impacts in a technically or scientifically defensible manner. Finally, prior to the signing of the June 2007 or March 2008 Records of Decision, the BLM was not presented with significant new circumstances or information relevant to RMPA/EIS effects on ozone in the region that would have warranted an ozone analysis. Neither information about ambient ozone concentrations nor specific information about oil and gas emission sources would have compelled the BLM to conduct an ozone analysis. The BLM determined that ozone creation did not warrant analysis as an impact resulting from the leasing decision. In fact, monitoring data for the nearest continuous monitor located in Gothic indicated that the design value for ozone had been trending downwards.

Since the PRMPA/FEIS was performed, monitoring data has demonstrated additional regional ozone impacts. However, this data does not significantly affect the predicted impacts of the leasing decision, *i.e.* that oil and gas leasing would not result in the creation of significant ozone impacts. More recent ozone monitoring data for the region, such as that collected by the USFS in White River National Forest, was not available at the time.

Currently, the annual monitoring data produced does not contain sufficient data points over time to support accurate ozone modeling. The ozone analysis conducted for Pinedale Anticline EIS is not appropriate for the Roan Plateau given substantial differences in geography and the greater level of development density proposed for Pinedale Anticline. Similarly, information related to substantial oil and gas development (and the associated emissions) in the Piceance Basin or other nearby basins was not available or reasonably foreseeable at the time. Now that these developments are more fully defined, and the capability exists to model ozone impacts, both individual and cumulative, ozone will be analyzed in planning activities currently underway (e.g.,



the White River Resource Area Resource Management Plan Amendment). In addition, the BLM will perform additional NEPA analysis prior to authorizing any site-specific development. This analysis will consider ozone and any other air emissions associated with that activity. These emissions will be regulated by the CDPHE, and if necessary controlled to comply with applicable air quality standards.

**Protest Point A.5: BLM failed to support its air quality conclusions.**

**Response:**

The air quality analysis conducted for the Roan Plateau RMPA used the scientific standard for air quality modeling analyses in BLM EISs. The BLM used multiple models for its near-field and far-field analyses to reach its conclusions about air impacts. The California Puff Dispersion Model (CalPuff), meteorological data, and other methodologies used in the analysis were put forth by the BLM in an analysis protocol that was developed in consultation with an inter-agency team of air quality specialists (stakeholders include air staffs from the BLM, Forest Service, Utah Department of Environmental Quality, CDPHE-Air Quality Control Division, National Park Service and the EPA). The general consensus reached by this stakeholders group is reflected in the protocol and the methodologies used and the results of the final analysis (see Section 4.2.5 of the FEIS).

The Secretary of the Interior (through the BLM) met all legal responsibilities under NEPA to describe existing air quality conditions (Affected Environment) and to predict potential direct, indirect, and cumulative air quality impacts from the Proposed Action and Alternatives (Environmental Consequences), as required by CEQ regulations. In addition to predicting the maximum air quality impacts within close proximity (within 50km) of to the proposed activities, the air quality impact analysis also examined potential air quality impacts at twelve distant mandatory Federal PSD Class I areas and ten other distant "sensitive" locations. BLM compared direct impacts to Class I and Class II increments to assess their significance under NEPA. BLM did not conduct regulatory increment consumption analyses. The most recent and representative data were used to define the Affected Environment for NEPA purposes. BLM assumed emissions from operations in 2000 or 2001 were captured in state monitoring when establishing the Affected Environment. This approach is acceptable in light of state's Clean Air Act authority to monitor air quality. Under the Clean Air Act, the authority and responsibility for conducting regulatory PSD Increment Consumption Analysis rests with the appropriate air quality regulatory agency (e.g. CDPHE).

Air quality impacts from potential oil and gas exploration and production in the Naval Oil Shale Reserve 1 & 3 has been modeled and analyzed. Page 4-31 through 4-37 of the PRMPA/FEIS outlines the far-field modeling analysis. The BLM predicted there would be little to no expected impacts to the Rawah Wilderness which is proximate to Rocky Mountain National Park (p. 4-37, PRMPA/FEIS). Modeling impacts or the lack thereof, are not necessarily dependent strictly on geographic distance; but also on other model factors such as intervening topography, climate, and the location of emission sources. The BLM and the air modeling stakeholder's protocol group concluded that including the Rawah Wilderness Area as a Class I area was an adequate surrogate for Rocky Mountain National Park for analytical purposes because it is closer to the Roan Plateau than the National Park.

The modeling analysis used for assessing cumulative effects on Federal Class I and sensitive Class II areas specified by BLM and the States followed a general modeling procedure used for



Clean Air Act source review. The CALPUFF model was used to model these effects on Class I and II areas from proposed and other “reasonably foreseeable” and included far field emission sources (e.g., construction activities including traffic, construction of well pads, roads); and for near field emission sources (including well pads, glycol dehydrators, gas compressors and unpaved roads).

The FLAG Guideline was used to conduct the first-level screening for visibility which compares daily modeled primary (PM<sub>10</sub>) and secondary (sulfate and nitrate) particulate matter concentrations to the background conditions and seasonal relative humidity. Using this approach the FLAG model identified that proposed BLM actions exceeded the 10 percent change in threshold or “Limit of Acceptable Change” (LAC) for cumulative impacts.

The modeling results for cumulative effects on visibility indicate that potential BLM sources along with the results of the visibility analysis could potentially result in perceptible or noticeable impact on visibility at several of the Class I areas. Because the screening showed potential impacts on visibility of Class I areas, a more refined analysis was completed based on hourly optical monitoring data. The daily refined modeling results demonstrate that BLM operations would not result in significant impacts on visibility to any Class I area.

**Protest Point A.6: BLM failed to accurately assess impacts to sensitive species inasmuch as NSO and NGD lease provisions can be waived.**

**Response:**

You state in your protest that “... BLM relies upon faulty assumptions for its conclusion that oil and gas leasing will have a negligible to minor impact upon the Roan Plateau’s rare plant species.” You also state in your protest that the “...measures that are built into the plan to protect candidate and sensitive species are not nearly as protective as the BLM alleges.” However you provide no evidence in your protest that the protective provisions afforded sensitive species in the RMPA will not indeed protect sensitive species. Further, you provide no evidence to refute the impact analysis that was completed.

In your protest, you object to the fact that “... BLM’s proposed no surface-occupancy/no ground-disturbance (NSO/NGD) stipulations allow up to two years of ground disturbance and allow for the permanent installation of pipelines.” It is important to note that this condition is subject to very severe limitations and standards as outlined in Appendix C of the Record of Decision (ROD) dated June, 2007.

You protested that stipulations can be waived, especially NSO/NGD. A stipulation included in an oil and gas lease shall be subject to modification or waiver only if the authorized officer determines that the factors leading to its inclusion in the lease have changed sufficiently to make the protection provided by the stipulation no longer justified or if proposed operations would not cause unacceptable impacts. Decisions to grant waiver, modification or exception affecting wildlife typically involve consultation with the Colorado Division of Wildlife.

Accordingly, the BLM authorized officer would only make such a determination based on an analysis of potential impacts to resources or based on consideration of necessary protections. Further, as required by 43 C.F.R. § 3101.1-4, public notification and at least a 30-day public comment period are required before any substantial waiver or modification would be granted.

As stated in Appendix C of the PRMPA/FEIS (p. C-2), “Waivers apply to an entire stipulation area and are applied only after preparation of an environmental assessment and subsequent



decision that a stipulation is no longer required to protect a specific resource. The decision to waive a substantial stipulation requires a plan amendment and a 30-day public notice period." Hence, an informed decision-making process that involves the public would need to occur before such an action could be taken.

**Protest Point A.7: BLM's economics impacts analysis was arbitrary and capricious.**

Your protest point related to the BLM's economic analysis contains several sub-parts. We address each below.

**The data and methods used by BLM are in violation of NEPA and the Data Quality Act**  
**Response:**

The economic analysis included in the FEIS is adequate and in conformance with NEPA and the Data Quality Management Act. The long-term and short-term benefits and impacts associated with oil and gas development and with traditional uses such as recreation/tourism/wildlife in the planning area are disclosed in Section 4.4.3 of the FEIS. Current economic benefits to the planning area from these traditional uses are described (and quantified) in Section 3.4.3, page 3-83.

**BLM ignored data and a substantial body of economic research on the role of natural amenities in sustaining rural communities.**

**Response:**

The BLM addressed the role of natural amenities in sustaining rural communities. At the time the EIS was written there were no studies of amenity values for the Planning Areas. The BLM was aware based on social and economic issues identified during scoping that quality of life was an important issue in the area. As a result, the BLM utilized the services of a social scientist who conduct numerous interviews with residents, community leaders and public land users with the purpose of "exploring attitudes of locals about their lifestyle and quality of life and assess the role of public lands in general, and the Planning Area in particular, in shaping those attitudes." The results are documented in the EIS Affected Environment section 3.4.3.6 Quality of Life Considerations.

The DEIS and FEIS include discussions of such social values, as described in your letter. Benefits to the public associated with nearby wilderness quality lands are documented in several resource discussions – not simply in the socioeconomic analysis. In the FEIS, see the analysis of visual resource management (for aesthetic values associated with viewsheds, pp. 4-78 through 4-84); recreation (including opportunities for primitive experiences, pp. 4-110 through 4-113); wilderness characteristics (as they relate to the human experience, p. 4-125); and socioeconomics (pp. 4-96 through 4-104). Combined, the analyses qualitatively address the benefits to local residents of having wilderness quality lands nearby by primarily discussing uses of these lands.

**The BLM failed to examine the negative impacts of drilling on the diversity and economic prosperity of local communities.**

**Response:**

The environmental consequences section discussed the cumulative impacts to the local communities. The economic impacts of the Proposed Plan are insignificant compared to the cumulative impacts from the county wide oil and gas development even under the No Action alternative.



The PRMPA/FEIS analysis states “The proportion of cumulative socioeconomic impacts from the anticipated level of oil and gas development under the Proposed Plan is very minor. For example, the estimated 1,570 new wells on BLM lands in 20 years would be in comparison to the projection of 10,000 to 20,000 for the county during the same timeframe” (p. 4-100). The EIS acknowledges that there may be socioeconomic impacts to certain nearby communities, including the Towns of Silt, City of Rifle and Town of Parachute. Those socioeconomic impacts are disclosed and discussed in the RMPA/EIS.

**The BLM failed to examine the cumulative fiscal costs to local communities.**

**Response:**

As discussed above, the environmental consequences section discussed the cumulative economic impacts to the local communities.

The BLM realizes that local and county governments incur upfront costs for a variety of infrastructure and services associated with responding to that growth. At page 4-99 the PRMPA/FEIS discusses cumulative fiscal impacts. These include the fact that a variety of taxes—e.g., property taxes, sales taxes, and State severance taxes on the value of the oil and gas production—will help repay the upfront costs to local governments over a period of years. Additionally, oil and gas operators pay a 12.5% royalty to the Federal government on the value of production from Federal leases. One half of the royalty payments are returned to the State of Colorado. As stated on page 4-99 of the PRMPA/FEIS, “Colorado distributes these funds according to a complex set of formulas and conditions.” The amount that the State reimburses to affected county governments is beyond BLM’s ability to control. However, in 2003, Garfield County received about \$1.3 million from the State’s share of federal royalties.

**The BLM failed to account for the contribution of retirement income.**

**Response:**

The FEIS at page 4-98 state “Almost three-fourths of all personal income in Garfield County is derived from wages or salaries.” It follows from this analysis that one fourth or 25% of personal income is from non labor income. Thus, the economic analysis has taken into account non labor income including retirement income. The analysis projects that the Proposed Plan will have a “small positive” impact on personal income levels. Nothing is offered by the protest letter to suggest that this conclusion is in error based on new or significant information describing changes in the economic sector.

The economic section of the EIS did not assess a correlation between second homes and the proposed action because none of the economic analysis performed by or made available to the BLM demonstrated a significant link between second homes and leasing and therefore it was not considered.

**BLM failed to address impacts to property values.**

**Response:**

There is no quantitative data currently available or presented in the protest to measure changes in property values as a result of the decision to issue oil and gas leases in the Naval Oil Shale Reserves 1 and 3. Furthermore, data from another area may be of limited utility because of differences among communities. The possibility of impacts to property values is thus highly speculative.

**BLM failed to take a hard look at the economic benefits from hunting, fishing and**



**recreation.**

**Response:**

The ability to quantify economic changes – whether benefits or costs – from hunting, fishing and recreation require data on existing activity days and changes in these activities for each RMP alternative. The BLM used the best available data at the time to conduct a qualitative analysis of hunting, fishing and recreation as described at pages 4-95 to 4-104 of the EIS. The BLM found the overall economic impact would be negligible. The BLM has not received any additional data that would allow a quantitative analysis contained in the EIS.

**Protest Point A.8: BLM violated FLPMA and Clean Air Act by failing to analyze the impacts associated with ozone emissions.**

**Response:**

See response to **Protest Point A.4**

Accordingly, on behalf of the Department of the Interior, I dismiss your protest. If you have any questions about this response, contact Duane Spencer, Chief, Branch of Fluid Minerals at 303.239.3753.



C. Stephen Allred  
Assistant Secretary  
Land and Mineral Management

cc:

State Director, Colorado State Office  
DSD, COSO Division of Energy, Lands and Minerals  
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